Pasted
B

FOR MYSORE STATE

(195 3) Department.

MS. SERIES.

G.O. NO. 1440

Dated 1.5.53

[Despatch Abstract.]

Prisoners - Advisory Board Central Ja l, Cannanore - Convict No. 3495, Pedru Kutinha - Release -ordered -

No.R.7/ 2091 /53

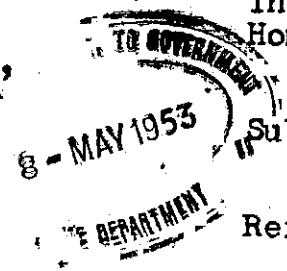
Office of the Superintendent, Central Jail, Cannanore, Dated 6-5-1953.

From

Sri.K.P.R. Menon, Superintendent.

To

The Joint Secretary to Government,
Home Department, Madras.



Sir,

Sub:- Prisoners - Advisory Board - Central Jail, Cannanore - Convict No.3945 Pedru Kutinha - Release - Ordered.

Ref:- G.O.Ms.No. 1440 Home Department D/ 1st May 1953.

I hereby acknowledge receipt of the above Government Order.

97892

Superintendent.

Copy submitted to the Inspector-General of Prisons, Madras. The Convict No. 3945 Pedru Kutinha has this day been released from this Jail.

mvr.

May be filed with the G.O.

S.C. Files
70621

1

Government of Madras

Copy of letter No. 145-B4-53, dated 2nd April 1953 from the Inspector General of Prisons, Madras to the Secretary to Government, Home Department, Madras:

Pedru Kutinha.

Advisory Board - Central Jail, Cannanore C.No. ~~3483~~ 3945 ~~V.V. Achuthan Nair~~ - Cases of Lifers - Not recommended for premature release - Papers submitted.

Under Rule 310-A(a) of Part I, Madras Prison and Reformatory Manual, Volume II, I submit the following papers relating to the convicts mentioned in the annexure for orders of the Government. These papers were placed before the Advisory Board which met at the Central Jail, Cannanore on 20-3-1953.

1. Proceedings of the Board
2. Recommendation roll
3. Advisory Board working sheet
4. Nominal roll
5. Reports of the Police and the District Magistrate
6. Copies of judgment of the lower and appellate courts.

78594

2. I agree with the recommendation of the Board.

Annexure

S.No.	Convict No.	Name
~~1~~	~~3483~~	~~Veerangal Karunakaran Achutha~~ Nair
1.	1340	Chakala Kuntilinga
2.	3945	Pedru Kutinha
3.	5297	Kunhi-Raman
4.	5330	Kuneri-Damodaran.

/true copy/

EXTRACT OF THE PROCEEDINGS OF THE ADVISORY BOARD MEETING HELD AT THE CENTRAL JAIL CANNANORE ON 20TH MARCH 1963.

3

The cases of the following lifer convicts are RECOMMENDED for conditional release:-

S.No.	Convict No. & Name	Remarks.
2.	3945 Pedru Kutinha	Recommended.

-/True Copy/-

Superintendent,
Central Jail, Cannanore.

mvr.

Working sheet of Convict No. 3945 Pedru Kutinha.

5

Sentence	-	20 years.
Date of sentence		23- 2- 46
Add. 2/3 Sentence		4- 13
		22- 6- 59
Remission earned up to May '51 - 2927 Days or	-	7- 0- 8
Date of eligibility for Advisory Board.		15- 6- 51.

NB:- The case of the prisoner is submitted after consideration by the Advisory Board meeting as directed in G.O.Rt. No. 1296 Home Dept. D/ 22.4.52
Communicated in I.G.'s No. 132/54/52 D/ 24.4.52

Superintendent,
Central Jail, Cannanore

mvr.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13. 19,000—11—6—52.

7

NOMINAL ROLL OF MALE* CONVICT No. 3965 A.

Name Pedro Kulimba S/o Simon Kulimba

Residence (Village, Taluk and District). Palla Chiba, Karkal, South Kanara

Caste Roman, Present age 33 years, Occupation Merchant.

Section and Code under which imprisoned. Sec. 302 I.P.C.

Original sentence of order and date. Transportation for life on 23.2.46

Adjudicating Court and Calendar number of case. Sessions Judge S. Kanara in S.C. 3/46

Unexpired term of sentence after deducting remission earned. 4 year (s) 4 Month (s) 12 Day (s).

Present state of health and fitness to undertake a journey † I H (on 20.3.57)

2

Result of appeal (if any)— Dismissed in C.A. No. 279/46. D/24.6.46 by the High Court, Madras.

Conduct in Jail — Exemplary.

Personal and descriptive marks§— 1) A raised mole just above outer end of Rt elbow 2) A mole on middle of Rt collar bone 3) A fresh scar on centre of forehead.

Remarks— Class — C, Diet — Rice; Labour — A

Remission earned: 3120 days

* Strike out and add " Female " when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Cannanore C. JAIL,
20. 3. 1953

365) 3120 (8.6.20
2920
200
180
20

22.2.66
20.3.53
2.11.12
20.6.8
12.4.4

Superintendent,

Judl. (Jail II)-92—8,456—14-9-51.

Roll of convict recommended for conditional release under the Intermediate sentences scheme sanctioned in G.O. No. 667, Law (General), dated 26th February 1923.

1. Name of jail	Central Jail, Cannanore.
2. Convict number and name	3945 A. Pedru Kutinha
3. Father's or ~~Husband's~~ name	Simon Kutinha
4 Residential address including taluk and district,	Pallathika, Karkal, S. Kanara.
5. Court by which the prisoner was convicted and case number.	Sessions Judge. South Kanara in SC No. 3/46
6. Section of the I.P.C. or other law under which convicted.	302 IPC
7. Date of sentence	23-2-46
8. Period of sentence	Transportation for life.
9. Date on which convict completed two thirds of his sentence.	15-6-51
10. Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of public events should be excluded).	Y. M. D. 4- 4-12 on 20. 3. 53

	(1)There will be no reaction in the locality if the prisoner is released prematurely. (2) There will not be any ill feeling of the relations of the victim if he is released prematurely. (3) The life of the convict will be safe if he is to be released prematurely. (4) There was nothing against this prisoner prior to this Case The prisoner may be released prematurely. Sd/-D.S.P., South Kanara.
11. Full " police " history with recommendation of the District Superintendent of Police.	
12. Recommendation of the District Magistrate.	Enquiry reveals that at present there is no ill feeling between the convict and the relatives of the Deceased and that he can be released prematurely without enjury to the Community. His premature release is therefore recommended. Sd/- For Dt. Magistrate, S. Kanara.
13. Remark of the Superintendent of the Jail on the conduct of the convict in prison.	Exemplary.
14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate.	Recommended.

Cannanore, Central Jail,

Dated 20-3-1953. 195

Superintendent

mvr.

10 This day I made enquiries into the reference by questioning Vasude... Savera Fernandaz and Anthony Masarvana and others of Kukundos village and le... ed that there is likely to have no reactions in the village if the prisoner is prematurely released. The wife of the deceased and her younger son are now residing at Hirgan. Heyelder son and daughter(the wife of the prisoner) are at Bombay. They are not likely to create any trouble to the prisoner if he is released. As regards the previous history of the prisoner there is nothing bad about him in the village. He was running a beeda Beedi Shop at Kukkundos and he was not concerned in any criminal case here prior to this murder. But he was in Bombay for about 6 years doing the work of cooking in some Parsi house He belonged to Paldka Village in Mudabidri station limits. He settled at - Kukkundor after his marriage and there was nothing bad against him, prior to the occurrence,

The prisoner has got his relatives at Kukkondor and Paldka. His previous history prior to the murder in the village was not bad.

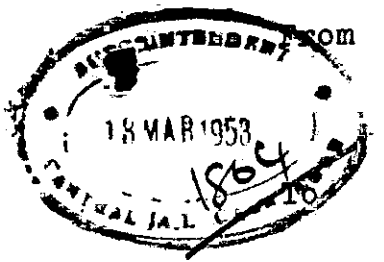
Sd/- S.I. of Police,

There was nothing against this prisoner prior to this Case. If he is releas ed prematurely there will be no reaction in the village.

Sd/- Inspector of Police.

M.L.Dis.797/53.

SOUTH KANARA DISTRICT MAGISTRATE'S
Office, Mangalore, dated 6-3-1953.



Sri. C. A. Ramakrishnan, I.C.S.,
District Magistrate, South Kanara.

The Superintendent,
Central Jail, Cannanore.

Sir,

Sub:- Prisoners - Convict No.3945 - Pidea Kunhiha - ~~Advisee-B~~ Advisory Board - Premature release - remarks.

Ref:- Your J.R. 487/53 dated 23-1-1953.

I enclose the records of enquiry received from the District Superintendent of Police, South Kanara. Enquiry reveals that at present there is no illfeeling between the convict and the relatives of the deceased and that he can be released prematurely without injury to the community His premature release is therefore recommended.

Yours faithfully,

For Dt. Magistrate.

kvr-2 10-3-1953.

ANNEXURE (to be returned) 2/13

Convict No. 3945 and Name. Pedru Kunjiha
Ulter.

The Government direct that the previous history of the above prisoner should contain the information on the following points and the District Magistrate and District Superintendent of Police are requested to furnish the same.

OFFICE, POLICE
4 FEB 1953

	Report of the District Supdt. of Police. 2	Opinion of the District Magistrate. 3
1. What will be the reaction in the locality, if the prisoner is released prematurely.	There will be no reaction in the locality if the prisoner is released prematurely.	
2. What will be the feeling of the relations of the victim of victim of the offence who suffered at the hands of the accused will be in case of premature release.	There will not be any ill feeling of the relations of the victim if he is released prematurely	
3. Whether the life of the accused itself will be safe if he is to be released prematurely;	yes	
4. Whether the life of the accused itself will be safe if he is to be released prematurely;	yes.	
5. Any additional information relating to the prisoner.	There was nothing against this prisoner prior to this case.	

Submit. of Police. District Magistrate.

Dy. Superintendent of Police, South Kanara

File Govt. Memo No. 17013/Jails-II/50-3 dt. 31-3-50)

To

The District Superintendent of Police South Kanara

mvr.

Rambeciitted. 17

This day I made enquiries into the [illegible] by questioning Vasudeva Shenoy Saviera Fernandes and Anthony Mascarenhas and others of Kukundoor village and heard that there is likely to have no reaction in this village if the prisoner is prematurely released. The wife of the deceased and her younger son are now residing at Hirgan. Her elder son and daughter (the wife of the prisoner) are at Bombay They are not likely to create any trouble to the prisoner if he is released.

As regards the previous history of the prisoner, there is nothing bad about him in the village. He was running a Beeda Beedi shop at Kukundoor and he was not concerned in any criminal case here prior to this murder. But he was in Bombay

for about six years, doing the work of cooking in some Parsi houses. He belonged to Paladha village in Mandalvadi station limits. He married settled at Kurundwad after his marriage and there was nothing bad against him, prior to his arrest.

Answers to queries (1) to (5) are given below.

1) nil
2) nil
3) yes.
4) yes
5) The prisoner has got his relatives at Kurundwad and Paladha. His previous history, prior to the marriage = the village was not bad.

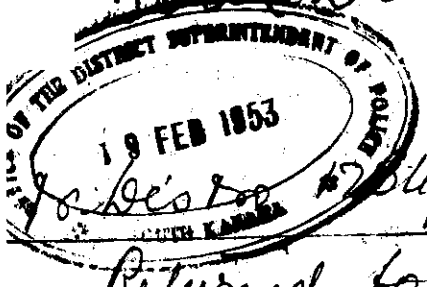
CIRCLE OFFICE, MOODABIDRE
--- FEB 1953

16/2/53 Sirsh.

Dr Sir/Madam

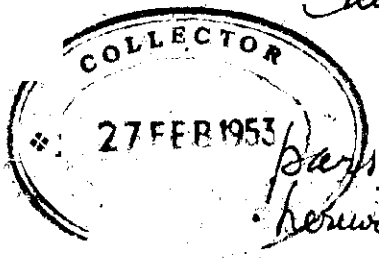
There was nothing against this prisoner to our knowledge so he was released prematurely from the Police Station ... the Village

G.P. Smith
for Inspector
18/2



Ref No. CID/D2/53

Returned to the Superintendent Central Jail Tamanrasset through the District Magistrate Kamara



The prisoner may be released prematurely. Particulars have been entered in the Admission and release Register.

E Upton

1/2 W Kamara
District Superintendent of Police
for Sgt Major Kamara District

OFFICE OF THE DIS... 12 JAN 1991 ...R KANARA

ASSESSOR CASE.

In the Court of Sessions, South Kanara.

February Sessions.

Saturday, the 23rd day of February, 1946.

PRESENT:—K. SRINIVASAN, ESQ., I. C. S.,
Sessions Judge.

Sessions Case No. 3 of 1946.

...JICE CIRCLE ...BIDRE 26 JAN 1952

NAME OF THE ACCUSED	Pedru Kutinha
CHARGE	Murder—Section 302 I.P.C.
ASSESSORS	Messrs. 1. J. L. D'Souza (R. C. Christian) 10 2. Alexander Fernandes (R. C. Christian) 3. Vishwanatha Nayak (G. S. Brahmin) 4. H. Ananda Gadiyar (G. S. Brahmin)
OPINION OF ASSESSORS	Assessors Nos. 1 to 3 are of the opinion that the accused is guilty under section 326 I.P.C., while the 4th assessor is of the opinion that the accused is not guilty.
FINDING OF THE JUDGE	Guilty under section 302 I.P.C.
SENTENCE	The accused is sentenced to transportation for life. 20

The accused was defended by Sri G. K. Govinda Bhat, advocate (Crown Brief).

The case was committed by Sri R. S. Subramanyam, B. A., Stationary Sub Magistrate, Karkal, in R.C. No. 8/45 on his file (F.I. No. 60A/45 of Karkal Station).

Judgment.

The accused pleads not guilty to a charge of having murdered his father-in-law by stabbing him with a knife or dagger.

2. The accused had married the daughter of the deceased and P.W.3 about 5 years ago. The deceased, who had been to Bombay, had returned about a couple of months prior to the occurrence. The accused wanted his wife P.W.4 to get a loan of Rs. 100 from her father. P.W.4 declined. Two or 3 days later the the accused himself asked 30 the deceased for this amount but the deceased gave him only Rs. 10/- saying that he did not have money enough to comply with the accused's request. It is the prosecution case that the accused was frequently demanding that his wife should obtain money from her father and upon her refusal he used to beat and ill-treat her. On another occasion the accused took away the gold chain which P.W.4 was wearing and pledged it. The deceased redeemed the jewel and gave it back to P.W.4.

3. On the day prior to the occurrence P.W.4 claims that she was beaten. She therefore, sent for her father. P.W.3 and the deceased came to the accused's house in the evening. The deceased warned the accused that if he continued to beat his wife he would lay a complaint before the police. He also threatened to take away 40 his daughter and have her admitted in a convent at Mangalore. To this the accused threateningly retorted, "Do what you like. I will see to it." The deceased and P.W.3 returned to their house.

4. On the following morning the deceased went as usual to the coffee hotel of P.W.8. This coffee hotel is near the junction of the roads leading to Udipi and Someshwar. At some distance from this junction the accused was having a small *beeda* and *beedi* shop which the accused or his wife P.W.4 was attending to. Probably at about 11 A. M. the deceased left the coffee hotel and proceeded homewards along the Someshwar road. It is the prosecution case that while he was on his way home the accused attacked him and caused him injuries leading to his death. P.W.7 was coming along this road and 50 from a distance he saw the deceased seated by the road side. He also saw the accused standing by him with a dagger in his right hand and what looked like a stick in the other. Upon seeing this witness the accused ran away. P.W.7 came to the deceased and found that he had a bleeding injury. The deceased told the witness that his

son-in-law had stabbed him and had run away. Upon the deceased's request [redacted] witness went and informed Achutha Pai (P.W.8), the hotel keeper, about the incident and went away to a native physician's house as he (P.W.7) was suffering from malaria at the time.

5. It would appear that one Chandu Bhandary who happened to come that way also saw the the deceased. The deceased told him likewise about the incident and asked this Chandu Bhandary to convey news of his injuries to his house. Accordingly Chandu Bhandary came to the house of Nagappaya in whose house the deceased and P.W.3 were residing as tenants. P.W.3, the widow of the deceased, heard about this and suspecting that it must be her husband immediately came to the place. She was accompanied by this Nagappaya also. To both P.W.3 and Nagappaya the deceased stated that it was his son-in-law that had stabbed him and hit him with a stone. P.W.3 went and fetched Chinnu Shetty, Ignatius Castelino and P.W.4. To these persons also the deceased gave the same version of the incident. The witnesses were unable to get any conveyance to carry the deceased to the hospital. Castelino P.W.6 went to the police station and gave a complaint Exhibit P4. When he returned he found the deceased dead.

6. The Sub Inspector went to the scene of occurrence at about 6-30 P. M. He conducted the inquest and examined witnesses both at the inquest and on the following day. The accused was absconding.

7. The evidence of P.W.4, the wife of the accused and P.W.10 the land-lady of the house where the accused and P.W.4 were residing, shows that following the quarrel between the husband and the wife, the accused left saying that he was going away to Bombay. At about 12 noon however the accused came to his shop which P.W.4 was attending to. He asked P.W.4 for her gold chain. P.W.4 put him off by saying that it was in the house. At this time P.W.4 noticed that there were some blood stains upon his clothes. The accused then went to his house. He was inside the house for some time and then went away. Apparently he had been searching for the gold chain. P.W.9 the shopkeeper who had a *beeda* and *beedi* shop quite close to the accused's shop saw the accused come to the shop at about noon, give a couple of blows to P.W.4 and go towards his house.

8. The post mortem revealed five injuries. One was a vertical punctured wound on the left cheek which extended into the cavity of the left maxillary sinus, and involved a fracture of the anterior wall of the left maxillary sinus which is the 2nd injury. The sinus itself contained one ounce of fluid blood. There were two abrasions and one contusion. The doctor was of the opinion that death must have been due to shock and haemorrhage from the first two of the above mentioned injuries, and that these injuries, if not attended to immediately, might cause death in the normal course.

9. The accused could not be traced. Proceedings under sections 87 and 88 Cr. P. C. were taken. Almost by accident he was discovered in the limits of Sullia Station. A constable, who was attached to Karkal Station at the time of this occurrence and who had been transferred to Sullia Station found this accused in that station limits. On seeing the constable the accused is said to have taken to his heels whereupon he was chased and arrested. This was on 30-12-1945 about 6½ months after the occurrence.

10. Before the lower court the accused made a long statement denying that he had anything to do with the occurrence. He claimed that he was not ill-treating his wife for any of the reasons given by the prosecution. He admitted that once he had to give admonitory beatings to his wife either because she was not looking after their child properly or because she was not cooking his food in time. He denied that on the day prior to the occurrence the deceased had come to his house or had found fault with him in any manner. He claimed that because of the unsatisfactory behaviour of his wife, he left on the morning of the date of the occurrence preferring to live in his own way. He denied having stabbed his father-in-law. He claimed that P.W.7's evidence is totally false and that it is the outcome of enmity towards him because P.W.7 owed him money on account of the dealings at the shop. Before this court he asserted that the prosecution version is totally false. He claimed that P.Ws. 5, 6 and 7 are his enemies, that P.W.5 also owed him a sum of Rs. 27/- and because he (the accused) demanded payment in the presence of other

persons, P.W.5 resented it. He denied having taken away P.W.4's jewels or having beaten P.W.4 for her refusal to obtain money from her father. He claimed that he left Karkal on the morning of the date of incident and went to Mangalore immediately. He denied also the version that he returned to the shop or to the house at about noon and asserted that there were no blood stains upon his person. He claimed that he got employment as a forest watcher at Sullia, that he was not absconding and that he was utterly unaware of the occurrence.

11. One defence witness was examined. It would appear that before the deceased returned from Bombay P.W.3 the deceased's widow and P.W.4 the accused's wife were residing in a house belonging to D.W.1. D.W.1's evidence has no connection with the incident out of which this case arises. She only states that P.W.4 was refusing to go and live with her husband and that on one occasion when the accused came and demanded that his wife should return to him, P.W.3, the mother-in-law, even attempted to assault him. Her evidence seeks to support the theory put forward by the accused that his wife was averse to living with him and that the present case has been engineered to get rid of him altogether.

12. Chandu Bhandary, whose evidence I have referred to above, is not available to give evidence. He was examined before the lower court and it is stated by the constable P.W.14 that this man is bedridden with typhoid and is unable to appear in court and give evidence. His deposition recorded before the lower court has, therefore, been marked as evidence in this case under the provisions of section 33 of the Evidence Act. Nagappayya the forester at whose house this Chandu Bhandary gave information is also not available to give evidence as his whereabouts are said to be unknown. But in the absence of clear evidence to show that his presence cannot be secured, his evidence before the lower court has not been marked as evidence here. Further what Chandu Bhandary is said to have told at Nagappayya's house is spoken to by the deceased's widow who was also present, so that Nagappayya's evidence is unnecessary in this case.

13. There are no eye-witnesses to the occurrence. There is the evidence of P.W.7 that he saw the accused armed with a weapon standing near the deceased, that on seeing him the accused ran away and that immediately afterwards he found the deceased with an injury on his cheek. There is the further evidence of numerous witnesses all of whom declare that the deceased told them that his son-in-law the accused had stabbed him. There is also the further circumstance that shortly after the occurrence the accused came to the shop and at this time there were blood stains upon his person. The last circumstance against the accused is the fact that he had absconded and was not available for over 6 months.

14. There is utterly no reason to disbelieve the evidence of P.W.7. I am unable to accept the accused's allegation that P.W.7 owed money to the accused and has on that account come forward to give false evidence. Immediately after seeing the deceased who told him that his son-in-law had attacked him, P.W.7 informed P.W.8 the coffee hotel-keeper about it. There is no reason why P.W.8, against whom the accused can advance no grounds of enmity, should support this version, if it is false.

15. The further evidence of a large number of witnesses that the deceased himself told them that his son-in-law had attacked him is to my mind trustworthy. No understandable grounds exist why all of these persons should join in order to foist a false charge against the accused. The theory put forward by the accused that his wife is responsible for this false case and has engineered it in an attempt to get rid of him cannot be accepted.

16. That the accused was seen near the scene of occurrence a short while after the occurrence itself is spoken to by P.Ws. 4, 9 and 10. The accused denies this fact. P.W.4 further claims that there were some blood stains upon his clothes and that she could not ask him any question about these blood stains because the very first thing the accused did when he came to the shop was to give her a couple of blows and demand the gold chain. This circumstance, namely, that the accused beat P.W.4 at the shop is spoken to by the neighbouring shop-keeper P.W.9. P.W.10 the landlady of the house also swears that the accused came to the house at about 12 noon and was inside the house for a few minutes before leaving. The accused denies that there were any blood stains upon his person but though there is only one witness who speaks about the blood stains I can see no reason to disbelieve this evidence. The final circumstance against the ac-

22

cused is that he was absconding for a considerable length of time. It is argued by the learned counsel for the accused that it is hardly likely that the accused would have been found in the neighbourhood of Sullia Police Station if he had a guilty conscience. It is seen, however, that Sullia is in the *ghats* about 80 miles from Karkal where the occurrence took place and it is not unreasonable that the accused might have thought that at such a distance from the scene of occurrence and after the lengthy interval that had elapsed since the occurrence he might remain undetected. His plea that he was unaware of the occurrence or that he was not absconding has to be rejected.

17. From the evidence it follows that it must have been the accused who attacked the deceased and caused him the injuries.

18. The injury was not a necessarily fatal one. The doctor admitted during cross-examination that death need not necessarily be caused by this injury in the ordinary course of nature, though he qualified this statement by saying that even in a healthy man this injury might cause death if not immediately attended to. It would appear that the deceased was a tubercular patient and that he was in a weak state of health. Quite possibly the shock resulting from this injury was too much for a man of such a low physical condition but death was not due to the disease which the deceased was suffering from. The question is whether under these circumstances the accused can be deemed to be guilty of an offence of murder.

19. At least one fact is clear. Both the nature of the injury and the circumstance that only one stab was given may be taken as safe indications of the fact that the accused could not have any intention to kill But the injury was sufficient in the ordinary course to result in death though it might be that prompt medical aid might have saved the man. The case would, therefore, fall within one of the later clauses of section 300 I.P.C. and the act would amount to murder.

20. Three of the assessors are of the opinion that the accused is guilty only of an offence under section 326 I.P.C. while the remaining assessor holds that the accused is not guilty at all. I disagree with all of them and hold that the offence is one of murder. I convict the accused under section 302 I.P.C.

21. This is not a case in which the infliction of the extreme penalty of law is called for. I am of the opinion that the lesser penalty will meet the ends of justice and sentence the accused to transportation for life.

Dictated to the shorthand writer, transcribed by him and pronounced in open court this the 23rd day of February 1946.

(Sd.) K. SRINIVASAN,
Sessions Judge.

N.B. The accused will be confined in the Central Jail at Cannanore.

APPENDIX.

The following witnesses were examined:—

For Prosecution

1. Dr. M. Shambu Hegde (Civil Assistant Surgeon)
2. Mr. Syed Ishak Saheb (Magisterial clerk)
3. Illian Menezes
4. Karmina Dalmeida
5. Chinnaya Shetty
6. Ignatius Castelino
7. Isac Maben
8. Achutha Pai
9. Veeraya Shettigara
10. Seraphina Dalmeida
11. Sadiya Naik (H.C.397)
12. Baba Sahib (P.C.260)
13. K. Manjunath (P.C.644)
14. K. Narayana (P.C.520)
15. Sri D. Natarajan (Sub Inspector)

FOR DEFENCE

1. Subbu Pujarthi

The following exhibits were filed:

FOR PROSECUTION

P1	20- 6-1945	Post mortem certificate.
P1(a)	do	Do notes
P2	26- 6-1945	Office copy of letter sent to the Chemical Examiner.
P2(a)	3- 7-1945	Report of the Chemical Examiner.
P2(b)	23- 7-1945	Report of the Imperial Serologist.

P3	18-10-1945	Proclamation for appearance of the accused under section 87 Cr.P.C
P4	19- 6-1945	Statement of P.W.6 at the police station, Karkal.
P5	19- 6-1945	Eye-sketch of the scene of offence.
P6	16- 1-1946	Deposition of Chandu Bhandary in the lower court.
P7	25- 1-1946	Statement of the accused in the lower court.

FOR DEFENCE.

D1	24- 1-1946	Portion marked in the deposition of P.W.10 in the lower court.

MATERIAL OBJECTS

Nil.

(Sd.) K. SRINIVASAN
Sessions Judge.

(True Copy)

By order

Vacation Officer
Sessions Judge.

WORDS: 2,957.

S. P. Works, Ltd. P. I. C. No. S. K. 23—5-3-46/15 Copies.

In the High Court of Judicature at Madras.

Wednesday, the twenty fourth day of April,
One thousand nine hundred and forty six.

Present:-

The Honourable Mr.Justice Horwill and
The Honourable Mr.Justice Shahabuddin.

C.A.No.279/1946.

Pedru Kutinha Appellant (Prisoner)

Appeal against the sentence passed by the court of Session of the South Kanara Divn. on 23rd February 1946 in case No.3 of the Calendar for 1946.

The appeal coming on for hearing under the provisions of Sec. 421, Code of Criminal Procedure, and Counsel not appearing on behalf of the appellant; upon perusing the petition of appeal and the judgment of the court of session, the court delivered the following

Judgment:-(Judgment of the Court was delivered by Shahabuddin J.) The appellant has been convicted of the murder of his father-in-law and has been sentenced to transportation for life. The relation between the appellant and the deceased appear to have been strained on account of the fact that the deceased did not give him a loan of Rs.100/-. When the appellant asked for the loan, the deceased said that he could spare only Rs. /-. The appellant was not treating his wife properly and on the day prior to the murder he beat her. The deceased thereupon warned the appellant that if he continued to beat his daughter a complaint would be made to the police. The case for the prosecution was that the appellant at that time threatened the deceased saying "Do what you like. I will see to it", and on the next day when the deceased was returning from the coffee hotel at about 11 a.m. the appellant stabbed him with a dagger.

There is no direct evidence of the murder, but there is sufficient circumstantial evidence which clearly establishes the guilt of the appellant. P.W.? who happened to go along the road at the time the deceased was attacked deposed that he saw the deceased seated by the roadside with a bleeding injury and the appellant standing there with a dagger. Seeing this witness the appellant ran away, and the deceased told the witness that the appellant had stabbed him. P.W.? then sent for the appellant's wife. To her and the others who came to the scene the deceased said that he had been stabbed by the appellant. The deceased died before he could be taken to the hospital. Shortly after the occurrence, the appellant came to the shop which was in charge of his wife, P.W.4, and at that time P.W.4 saw blood stains on the appellant's clothes. The appellant then absconded and proceedings had to be taken under secs.87 and 88 of the Criminal Pro.Code. It was only 6½ months later on 30-12-45 that he was arrested.

In his statement before the Committing Magistrate he denied having committed the offence. He said that the witnesses who had given evidence against him were not well disposed towards

him. He explained that he had not absconded but was employed as a forest watcher. He examined a witness whose evidence did not relate to the actual occurrence but was only to the effect that P.W.4 was averse to living with the appellant. The contention advanced by the appellant was that that was the reason why he was falsely implicated in this case.

The learned Judge has believed the evidence of P.W.7 and the other witnesses, and the reasons given by him for doing so are sound. The injuries found on the deceased were a fracture of the anterior wall of the left maxillary sinus and a vertical puncture on the left cheek which extended into the cavity of the left maxillary sinus. These were sufficient in the ordinary course of nature to cause death.

We therefore consider that the appellant has been rightly convicted.

The appeal is dismissed.

Sd/ K.C.Nambiar,

Addl. Referee and Vacation Officer.

(True Copy)

for Official Referee and Vacation Officer.

To

The Superintendent, Central Jail, Cannanore with reference to his letter No.R.3945/48 dated 21-5-48.

PP

P/Issue B, 1/5/53 — Secy to J.S Secy to ministers

27

C. No. 76594 Cts IV/53

602—26-2-52.

10/115

HOME DEPARTMENT.

G.O. Ms. No. 1440

Dated 1.5.53.

PRISONERS—Advisory Board { ~~The Penitentiary, Madras~~ / Central Jail, Cannanore

Convict No. ~~3495~~ 3945, PEDRU KUTTY HA

Release—Ordered.

READ—the following :—

P.C.t From the Inspector-General of Prisons, No. 145/54/53 dt. 2.4.53

ORDER—

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, ~~His Excellency~~ the Governor of Madras hereby remits ~~with effect from~~ ——— the unexpired portion (s) of the sentence (s) of ~~the imprisonment~~/ transportation for life passed on the prisoner(s) shown in the annexure to these proceedings subject to the condition that he/~~they~~ will be of good conduct and will keep the peace for ~~the period noted against them~~ a period of two years.

B. 9/4/53 — 29/4/53

P/68 — 29.4.53

Unexpired portion of sentence Rs 3

To

The Inspector-General of Prisons, Madras (with one spare copy).
,, Superintendent, Central Jail, Cannanore.
,, Registrar, High Court, Madras.
,, ~~Additional~~ District Magistrate (~~I~~). South Kanara, Mangalore.
,, Sessions Judge, South Kanara.
,, Inspector-General of Police, Madras (with one spare copy).
,, Secretary, Madras ~~Presidency~~ State Discharged Prisoners, Aid Society, ' Goschen Home ', Teynampet, Madras.

Dpd 2/5/53.

[Annexure. P.T.O.]

28

ANNEXURE.

~~The Penitentiary, Madras~~
Central Jail, CANNANORE.

Number and name of Convict including father's name.	Residential address including taluk and district.	Sentencing Court and Case No.	Sentence and date.	Date on which release should take effect.	Period of good conduct.
3945 ~~3445~~, PEDRU KUTINHA Son of Siman Kutinha.	Pallathika, Karkal, S. Kanara.	1) S. J. S. Kanara. S.C. 3/46	Transportation for life.	23.2.'46.	
p9c.f	p9c.f	p19c.f	p19c.f		
		2) High Court CA. No. 279/46.	Confirmed. 24.4.46.		
		p25c.f	B or p26c f.		

B.
29/4/53
29.4.53

G. No. 10594 Cts. IV/53 602—26-2-52.

HOME DEPARTMENT.

Prisoners—Advisory Board Central **Jail** Cannanore **/Penitentiary,**
Madras **Convict No.** 3495 **Release.**
3945~~3495~~, Pedru Kutinha - Release.

From the Inspector-General of Prisons, No. 145/S4/53, d. 2-4-53.

1. Name of Jail		Central Jail, Cannanore
2. Number and name of convict		3945 ~~3495~~, PEDRU KUTINHA
3. Father's name		Simon Kutinha
4. Residential address including taluk and district.		Pallathika, Karkal, S. Kanara
5. Court and Case No.	1)	Sessions Judge, South Kanara S.C. No. 3/46
	2)	High Court C.A.No. 279/1946
6. Sentence and date with section of law	1)	Transportation for life 23-2-46 sec. 302 I.P.C.
	2)	Confirmed 24.4.1946.
7. Date of completion of ~~8/4 or~~ 2/3 sentence		15-6-51 Y. 4 M. 4 D. 12
8. Unexpired portion of sentence on 20.3.53		
9. Conduct in Jail		Exemplary
10. Recommendation of the D.M./D.S.P.		Recommended
11. Recommendation of the Board		Recommended
12. Period spent in jail (date of sentence 23-2-46)		About 7 yrs. and 2 months.

The prisoner was sentenced to transportation for life for having murdered his father-in-law. On appeal the High Court confirmed the conviction and sentence. For orders.

The relations between the accused and the deceased appear to have been strained on account of the fact that the deceased did not give him a loan of Rs. 100/-. When the accused asked for the loan, the deceased said that he could spare only Rs. 10/- and the accused began to ill treat his wife and beat her. The deceased warned the accused that if he continued to beat his

TP 694 ch IV

3
24/4

daughter a complaint would be made to the Police. On the next day when the deceased was returning from the coffee hotel at about 11 A.M. the accused stabbed him with a dagger. p2 sc 1

The prisoner completed ~~2/3rds~~ of his sentence on 15-6-51, When his case was considered by the Advisory Board but not recommended premature release. Govt. ordered the I.G. of Prisons to resubmit the case of the prisoner this year. It is seen from the present police report that the accused can be released without injury to the community. The previous police report is at pp. 21-22 and 25 of G.O.R. 1296, Home, dated 22-4-52. p5 sc 1 p3 of (B) (G.O.R. 1296/22.4.52) p27 ibid pp13-15c Last year also he was rejected the Govt. dismissed p7 sc 1 ibid

The prisoner is aged 33 years and is a merchant by occupation. The unexpired portion of his sentence on 20-3-53 was 4 years 4 months and 12 days. He has been in jail for about 7 yrs. and 2 months. For orders whether the agreed recommendation of the D.S.P. and the D.M. South Kanara and the Advisory Board may be accepted and the prisoner ordered to be released prematurely. pp11 & 15c 1 966 A 6600

22/4/53 In this case, the Sessions judge has observed that the prisoner could not have had any intention to kill his father-in-law, but the injury was sufficient in the ordinary course to result in death. The prisoner has spent over 7 years in jail and the unexpired portion of the sentence is just over 4 yrs In view of the police report at p 10 sc. Above may be approved. para 19 p 22 sc 1 Home Con

Rdshetty
23/4/53 JS

SECRETARY TO GOVERNMENT 25 APR 1953 HOME DEPARTMENT

JOINT SECRETARY TO GOVERNMENT 25 APR 1953 HOME DEPARTMENT

May be released

K.C. Zacharias) K.P. Kuriakose
C.M. The man is a murderer & does not deserve any clemency
It is clear enough the man wanted to kill - However I agree. C Rajagopalachari 24.4.53
V Ramaiya 23/4/53

Please see the orders in circulation at the bottom on the previous page. A draft order is routed for approval

29/4/53 29.4.53

29.4.53

Issued as GOTS 1440. d. 1.5.53